IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5183 OF 2006

Studio Musica & Ors. .. Petitioners

Versus

Vasantdada Shetkari Sahakari

Bank Ltd. .. Respondents

Mr.A.M.Kulkarni for petitioners

Mr.S.S.Patwardhan for respondent No.1

CORAM : S.C.DHARMADHIKARI, J.

DATE : 16th June 2007.

P.C.

. The order under challenge is passed by the Divisional Joint Registrar, Coop.Societies

Kolhapur in Revision Application No.25 of 2006 refusing to entertain the revision because the petitioners failed to deposit 50% of the amount under the said recovery certificate.

2. After this petition was placed before the Court on 27th September 2006, this Court recorded a statement of petitioner's Advocate that within three months, petitioners shall deposit an amount specified in the order and notice was issued on the basis of this statement.

3. Mr.Patwardhan learned Advocate appearing for respondent No.1 states that the amount is not paid despite statement and this position is accepted by Mr.Kulkarni in all fairness.

4. After arguing the matter for some time, Mr.Kulkarni states that he has instructions from the petitioners to state that petitioners would pay the amounts demanded under the Recovery

Certificate by 31st October 2008. He states that the petitioners are still negotiating with respondent No.1 Bank and if any lesser figure is agreed to, then this statement should be read as if the petitioners would make payment of that amount by the period aforestated.

5. Mr.Patwardhan does not oppose this request.

6. In the light of the undertaking of the petitioners to this Court through their Counsel that the amounts under the recovery certificate would be paid on or before 31st October 2008, it is directed that the first respondent shall not take any coercive steps till then. However, petitioners shall not, in any manner, alienate, encumber, part with possession or create third party rights in respect of their residential property/studio at Gowardhan Apartment North Shivaji Peth, Sangli.

7. Petition dismissed with the above undertaking and understanding that the petitioners not to alienate, encumber or dispose of the residential property mentioned above. Needless to state that this Court has not accepted petitioner's case that the recovery certificate has been issued ex-parte and, therefore, vitiated in any manner whatsoever and therefore bad in law.

8. Petition is dismissed, subject to above concession. Mr.Kulkarni states that he would endeavour to pay some amount on or before 31st March 2008 and remaining thereafter. No further extension will be granted.

(S.C.Dharmadhikari, J)